



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan

Director, Tarik Abdelazim

STAFF REPORT (UPDATED)

TO: Planning Commission Members
FROM: Planning Staff
DATE: April 24, 2013
SUBJECT: 404 Court Street; Series A Site Plan / Special Use Permit Review
TAX ID #: 161.22-3-2
CASE: 2012-52
COPIES: B. Seachrist, T. Costello, B. Berg (District 7), M. Corey, R. Lewis, File

A. REVIEW REQUESTED

404 Court St, LLC has submitted an application for Series A Site Plan / SUP review for a use of Automobile Sales, New at the property known as 404 Court Street. The subject property is currently vacant; the applicant recently obtained a Demolition Permit to remove a 6,400 square foot structure from the subject property.

The applicant proposes to improve the subject property for use as a new vehicle display and storage expansion to be utilized by an existing new automobile sales business located along the north side of Court Street (373-399 Court Street, 5 Moeller Street and 2-8 Louisa Street).

Submitted materials indicate that the proposed lot would contain a total of 42 automobile parking spaces.

B. ADDITIONAL REVIEWS

239 L&M Review (Broome County Department of Planning & Economic Development, BMTS, NYSDOT)

- The proposed project is within 500 feet of a state road, and therefore subject to 239 distribution and comment by Broome County Department of Economic Development & Planning. (Full comments attached in a separate document)

Engineering Department, City of Binghamton

- The proposed project requires approval of an Urban Runoff Reduction Plan (URRP); a preliminary plan has been submitted and reviewed by the Engineering Department. Please find the comments of City's Senior Engineer below:

"The revised plan does comply with the URRP requirements. I do have some concerns and comments, however. They are as follows:

1. By taking the trees out of the plans, there will be no attenuation of the "heat island effect" which is one of the reasons that tree plantings are required for parking areas.

2. The argument that the leaves from the trees would damage automobiles parked beneath them does not seem likely if care is taken in specifying the proposed species.
3. If leaves from the trees are really an issue then the interior landscape islands could have been kept, but they could have proposed other plantings using shrubs and other plants. This would at least promote some “greening” of the site.
4. The revised plan proposes to build 42 parking spaces instead of the 34 spaces in the original plan. Ten (10) trees would be needed as per zoning requirements.
5. The argument that tree plantings would be out of character with the neighboring lots is not valid. The reason for the zoning requirement is to change the character of neighborhoods and lots in a positive and aesthetically pleasing way, when improvements to a lot are constructed. Thereby transforming the City over a period of time.
6. Without having an itemized bid from Boland’s it is difficult to say what exactly is driving the cost of the project. I doubt the plantings are driving the project cost. By eliminating the islands and plantings the design engineer also eliminated the curbing. 695 lf of curbing would cost about \$18,000 to install. This is probably what precipitated the revised plans.”

Shade Tree Commission

- Shade Tree Commission reviewed the proposal at their January 22, 2013 meeting and offered the following comments:

“Current revised plan shows: 0 trees, 0 landscaping. Applicant’s Rationale: added expense to remove tree litter, potential bird droppings damaging to car finish, added greening would be inconsistent with existing Upper Court St. uniformly barren strip.”

Comments: The original plan included an acceptable landscaping plan, that met the City’s requirements for canopy coverage and tree planting, but was withdrawn. That plan would improve the aesthetics of upper Court St, which lacks street trees and has relatively little landscaping in general. Thermal mapping conducted by SUNY ESF shows that this area of Binghamton experiences the heat island effect, where large amounts of asphalt and low canopy coverage lead to higher temperatures in an area. Heat islands increase summertime peak energy demand, air conditioning costs, and air pollution. The revised plan is unacceptable. Therefore, recommend to deny.”

Waterfront Advisory Committee

- The proposed project is within the boundaries of the Local Waterfront Revitalization Project (LWRP) and therefore requires review by the Waterfront Advisory Committee (WAC).

“It is the unanimous recommendation of the Waterfront Advisory Committee that the application for the site plan dated 29 January 2013 be denied, as it is inconsistent with the official goals and policies of the Local Waterfront Revitalization Program as adopted by the Common Council of the City of Binghamton.” (Full Comments attached in separate document)

C. STANDARDS FOR APPROVAL OF SITE PLANS

Listed below are the *Standards for approval of site plans* found in Article IX of the Zoning Ordinance. In reviewing a Site Plan Modification application, the Planning Commission should refer to the guidelines for reviewing a Series A Site Plan application. Planning Commission is guided by the existing characteristics and conditions of the site, its surroundings, and the particular requirements of the Applicant. Elements of concern include, but are not limited to the following:

- Movement of vehicles and people
- Public safety
- Off-street parking and service
- Lot size, density, setbacks, building size, coverage and height
- Landscaping, site drainage, buffering, views or visual character
- Signs, site lighting
- Operational characteristics
- Architectural features, materials and colors
- Compatibility with general character of neighborhood
- Other considerations that may reasonably be related to health, safety, and general welfare

In addition, the general requirements described in Section 410-40 and the additional requirements of Section 410-41. A (10) for use of Automobile Sales, New in the C-1 District must be complied with. The requirements for Section 410-40 are as follows:

1. That the land use or activity is designed, located, and operated so as to protect the public health, safety, and welfare.
2. That the land use or activity will encourage and promote a suitable and safe environment for the surrounding neighborhood and will not cause substantial injury to the value of other property in the neighborhood.
3. That the land use or activity will be compatible with existing adjoining development and will not adversely change the established character or appearance of the neighborhood.
4. That effective landscaping and buffering is provided as may be required by the Planning Commission. To this end, parking areas and lot areas not used for structures or access drives shall be improved with grass, shrubs, trees, and other forms of landscaping, the location and species of which shall be specified on the site plan.
5. That a site plan shall be approved in accordance with applicable provisions of Article IX of the Zoning Ordinance.
6. That adequate off-street parking and loading are provided in accordance with Article X of the Zoning Ordinance or other requirements as may be set forth in Section 806, and egress and ingress to parking and loading areas are so designed as to minimize the number of curbcuts and not unduly interfere with traffic or abutting streets.
7. That site development shall be such as to minimize erosion and shall not produce increased surface water runoff onto abutting properties.
8. That existing public streets and utilities servicing the project shall be determined to be adequate.
9. That significant existing vegetation shall be preserved to the extent practicable.
10. That adequate lighting of the site and parking areas is provided and that exterior lighting sources are designed and located so as to produce minimal glare on adjacent streets and properties.
11. That the land use or activity conforms with all applicable regulations governing the zoning district

where it is to be located, and with performance standards set forth in Section 503 of the Zoning Ordinance, except as such regulations and performance standards may be modified by the Planning Commission or by the specific provisions of Section 806. Notwithstanding the above, the Planning Commission shall not be authorized to modify the land use regulations of the Zoning Ordinance.

Additionally, per §410-41. A (10), Automobile Sales, New, in the C-1, I-2, and I-3 Districts is permitted when:

- (a) A site plan is approved in accordance with the applicable provisions of Article IX of this chapter.
- (b) The number of unregistered and/or unlicensed vehicles permitted in the open shall not exceed a number equal to the number of repair bays located on that property. Any other unregistered and/or unlicensed vehicles must be relocated to a completely enclosed garage or removed from the property.
- (c) No outdoor storage of tires shall be permitted at any time.
- (d) No outside storage of materials is permitted in the required front and side setback areas.
- (e) No outdoor storage of vehicle parts, waste products, or other materials is permitted unless appropriately screened from view.

D. SITE REVIEW

The subject property is located on the south side of Court Street between Mason Avenue and Moeller Street. The subject parcel measures a width of 229 feet and a depth of 66 feet, and exists as unimproved, vacant commercial property. Two sets of active railroad tracks, one operated by Canadian Pacific (northernmost set) and one by New York, Susquehanna and Western (southernmost set), abut the subject property to the south. Beyond these tracks, the Susquehanna River runs east-west. A one story warehouse structure (6,400 sf gross floor area) was demolished and removed from the subject parcel in November 2012.

Land use in the vicinity of 404 Court Street consists is primarily commercial. The majority of commercial uses in the vicinity are automobile-focused, including existing Jack Sherman Toyota vehicle display and sales facilities, Super Tire Service, Inc., Citgo Gas Station, as well as drive-through restaurants (Taco Bell, Burger King, McDonald's).

E. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

404 Court Street: On April 5, 2013, the Zoning Board of Appeals granted Jack Sherman Toyota Area Variances of Minimum Landscaping Area (to provide 0%), Minimum Number of Interior Tree Plantings (to provide 0 interior plantings), Minimum Number of Perimeter Tree Plantings (to provide 0 perimeter plantings) and Minimum Tree Canopy Coverage (to provide 0% coverage) for an Off-Street Parking Area in the C-1, Service Commercial District.

373-375 Court Street: A Special Use Permit request to operate a used car dealership was granted to Charles Hutchings in 1996.

397 Court Street: The Planning Department approved a Series B Site Plan application submitted by James Corey in 1999 to use the property as an off-street parking lot.

405 Court Street: In 2008, the Planning Commission approved a Series A/Special Use Permit to operate a new & used car sales facility with minor repairs. A condition of the approval was the improvement of the fence located to the north of the property.

409-413 Court Street: In 1986, a request by Dean Fowler Oil Company for an area variance to construct an addition to an existing convenience store was approved by the Zoning Board of Appeals.

429 Court Street:

- The Zoning Board of Appeals granted area variances of off-street parking and drive-thru stacking requirements to Courterback Development in 1998.
- An area variance of setback requirements for a sign was granted to Courterback Development in 1999.

444 Court Street: The Planning Commission granted a Special Use Permit to Fred Marcello in 1994 to operate a used car dealership.

447-451 Court Street: In 1992, Joseph Miller was granted a Special Use Permit to operate an automobile repair shop.

450 Court Street: June 2007: The Planning Commission granted Jeff Zembek a Special Use Permit to operate a multi-use car care center in a C-1, Service Commercial zoning district.

450 Court Street: In August of 2008, the Planning Commission granted Jeff Zembeck a Site Plan Modification to an approved Series A Site Plan Review and Special Use Permit to operate a multi-use car care center in a C-1, Service Commercial District.

457 Court Street:

- In 1990, the Zoning Board of Appeals granted use and area variances to Stephen Harris and Jeff Feinberg to convert an existing building to a health club.
- A Special Use Permit was granted to Stephen Harris in 1989 to allow the conversion of an existing structure for use as an auto paint and body shop.

F. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
X	X	X	X	X	X	X

G. STAFF FINDINGS

Development of the subject property with a code-compliant parking lot to support the Jack Sherman Toyota Automobile Sales business is supported by Planning Staff. The replacement of the previously-submitted plan with the current site plan, however, does not meet criteria for Series A Site Plan or Special Use Permit approval.

Planning Staff concur with the findings of the Waterfront Advisory Committee, City Engineering Staff, Shade Tree Commission and Broome County Department of Planning and Economic Development that the proposal does not contain an adequate amount of landscaping, and therefore Planning Staff recommend that the proposal be **DENIED**, based on the following findings:

The requirements of Section 410-47 for a Series A Site Plan Review nor the general requirements as set forth in Section 410-40 for a Special Use Permit have not been met.

- A parking lot that includes 0 tree plantings, 0% landscaping of the parking area and contributes negatively to the visual aesthetic of an important gateway to the City of Binghamton, in addition to the negative environmental impacts described in the findings below. The proposal does not meet the standard for landscaping, buffering, views and visual character.

The 2003 Comprehensive Plan for the City of Binghamton found that Binghamton's gateways to the City did not establish a clear expression of community pride, and recommended that these areas be improved to provide a more welcoming first impression for visitors and residents. The form and character of a gateway is critical to the experience of residents and the impression left on potential

residents and investors. The proposed site plan would exacerbate the visually unappealing condition targeted for improvement, and ignores the need for aesthetic improvement of the Upper Court Street gateway. In contrast, installation of a plan with adequate plantings & shade coverage would constitute a step forward in addressing the identified needs of the immediate neighborhood and the vitality of the City overall.

- The proposal would contribute negatively to the general health and welfare of an area of the City identified as experiencing Heat Island effect under existing conditions; the proposed plan would exacerbate that condition. Heat Island effect forms in areas where dark, impermeable surfaces (i.e. asphalt) collect and trap more of the sun's heat, resulting in higher temperatures for the neighborhood (hotter during the daytime, and during the evenings as the surfaces release the trapped heat). Failure to design new projects to address this condition result in higher energy use & cost to the community and greater health risks related to higher temperatures. Tree canopy coverage of paved surfaces and landscaping reduces the amount of trapped heat, thereby cooling the environment surrounding it.
- Tree plantings remove pollutants & particles from the environment via their leaves, decreasing the levels of air pollution in the community (particularly important in areas of high vehicle traffic). Trees & vegetation reduce the volume & rate of stormwater that becomes runoff by catching rainfall (on their leaves, branches & trunks) and allowing more productive evaporation, thereby reducing the amount of rainfall that must enter the municipal system while creating a cooler, more comfortable community.

It is notable that applicant representatives (M. Corey & R. Lewis) met with Planning Staff at an August 21, 2012 pre-development work session to discuss the proposed off-street parking area at 404 Court Street, prior to purchasing the subject property and subsequent demolition of the structure located on it. At that meeting, Staff advised the applicant that the project would be subject to the design requirements for new construction of an off-street parking area, specifically stated that the requirements included tree plantings and landscaping, and advised them to review these requirements prior to further action on the project.

I. ENCLOSURES

Enclosed is a copy of the new site plan, an aerial photo of the area, 239-m Comments, Waterfront Advisory Committee Official Decision, letters in favor of the project (all submitted via email by Michael Corey), an application and site photographs.

Sincerely,

Patrick C. Day
Planner

Enclosures